REMARKS

The Office Action mailed, June 6, 2005 considered and rejected claims 1, 2, 4-18 and 20-33.[1]

By this paper, claims 1, 4, 22, 32 and 33 have been amended, claims 11-15 and 26-31 have been cancelled, such that claims 1, 2, 4-10, 16-18, 20-25, and 32-33 remain pending, of which claims 1 and 22 are the only independent claims at issue.

Embodiments of the present application illustrate how two or more television programs can be selected to be recorded at a set top box even when those programs conflict due to an overlap in time. The conflict does not need to be resolved at the time that any of the programs are selected, but rather can be resolved at a later time and in response to a subsequent event. Such events might include the addition of one or more tuners at the set top box, changes in program scheduling, canceling of one of the selections, and the like. Further, the user is not required to select one program over another to resolve the conflict. Rather, the set top box is programmed to record a program based on certain rules, but allows information about the conflict to persist such that a program that is conflicted out can later be scheduled for programming based on the subsequent event.

The pending claims are also directed to corresponding embodiments. Claim 1, for example, recites a method for controlling a recording apparatus. The method includes receiving

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[1] Claims 1, 2, 4, 5, 7-18, 20-27, 29-33 were rejected under 35 U.S.C. 102(b) as being unpatentable by Ward et al (U.S. Patent No. 6,756,997). Claims 6 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al (U.S. Patent No. 6,756,997) in view of Vallone et al (U.S. Patent No. 6,642,939). Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last response, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

user input selecting a first program for recording, the first program having a first broadcast time and receiving user input selecting a second program for recording, the second program having a second broadcast time that at least partially coincides with the first broadcast time. The method further includes determining that a conflict exists between the first program and the second program. Information is stored at the system specifying that the user has selected both the first program and the second program to be recorded. The system automatically selects the first program for recording from the first program and the second program in accordance with priority rules, an override, or an optional selection of the second program. The recording apparatus is programmed to schedule recording of the first program at the first broadcast time. Subsequent to programming the recording apparatus, information continues to be stored at the system. The information specifies that the user has selected both the first program and the second program to be recorded at the first broadcast time and the second broadcast time respectively without requiring the user to resolve the conflict. The continued storage preserves the possibility of scheduling the recording of the second program at the second broadcast time in response to a subsequent event.

Claim 22 recites a somewhat similar method for resolving conflicts between programs that have been selected for recording and have coinciding broadcast times. This method includes receiving input selecting a first program for recording. The first program is at a first broadcast time. Input selecting a second program is received. The second program has an expected second broadcast time having an expected start time and an expected end time. The expected broadcast time at least partially coincides with the first broadcast time. Broadcast data on a channel on which the second program is to be broadcast is monitored to determine that at least one of an actual start time and an actual end time differs from the respective expected start time and

expected end time. Upon determining that at least one of an actual start time and an actual end time of an actual second broadcast time differs from the respective expected start time and expected end time, it is determined if both the first program and the second program can be recorded as a result of the actual broadcast time and the first broadcast time not coinciding and, if so, recording both the first program and the second program using the recording apparatus.

With respect to claim 1, *Ward* does not demonstrate that information continues to be stored at the system preserving the possibility of scheduling the recording of the second program at the second broadcast time in response to a subsequent event. Rather *Ward* states for example that "[t]he EPG will require that the viewer revise the record instructions to eliminate the conflict." Col. 12, lines 53-55. Thus, in this example, there is no need, nor is it disclosed or suggested, to continue to store the information recited by claim 1. Alternatively, *Ward* states that "the EPG automatically 'decides' to override the 'regularly record' instruction and will record the 'one occurrence' program with no further intervention by the viewer." Col. 12, lines 61-65. Again, there is no need, nor is it disclosed or suggested, to continue to store the information recited by claim 1 as any conflict has been resolved. In yet another alternative *Ward* illustrates that the EPG allows the viewer to select a later occurrence of a conflicting program to resolve the conflict. Col. 13, lines 1-5. In other words, a program is recorded at a different time than the conflicting time. This is in direct contrast to what is recited by the claim 1, which recites "a second broadcast time that at least partially coincides with the first broadcast time" and "wherein the continued storage preserves the possibility of scheduling the recording of the second program *at the second broadcast time* in response to a subsequent event." In other words, claim 1 recites functionality that allows the second program to be recorded at the original second broadcast time selected by the user (in response to a subsequent event) rather than at a

later time. Additionally, this third example demonstrated by *Ward* does not include continuing to store the information recited by claim 1 but rather schedules one of the programs at a different time than originally selected by the user. In direct contrast, claim 1 recites "wherein the continued storage preserves the possibility of scheduling the recording of the second program *at the second broadcast time* in response to a subsequent event." The second broadcast time is recited as "at least partially coincid[ing] with the first broadcast time" rather than being at a different non-coinciding time.

With respect to claim 22, *Ward* discloses that recording time can be adjusted to compensate for changes in programming time such as when a sports event runs over time. However, *Ward* is silent on changing of recording time allowing a first and second program that were originally coinciding to be recorded as a result of the actual start and end time being changed such that the actual broadcast time and the first broadcast time is not coinciding, as recited by claim 22. Rather, as discussed above in conjunction with claim 1, conflict resolution in *Ward* results in the removal of one of the programs by user interaction, automatic intervention, or rescheduling recording one of the programs at a later time. Claim 22, in direct contrast, allows for recording of originally overlapping programming by recognizing changes in recording start and/or end time. This type of functionality of resolving overlaps due to a change in program time simply is not taught or suggested by *Ward*.

Vallone does not compensate for the deficiencies of *Ward*. *Vallone* is only cited to demonstrate the use of multiple tuners in a system.

Furthermore, although the foregoing remarks have been focused primarily on the independent claims, it will be appreciated that all of the rejections and assertions of record with respect to the independent claims, as well as the dependent claims, are now moot, and therefore

need not be addressed individually. However, in this regard, it should be appreciated that Applicant does not necessarily acquiesce to any assertions in the previous Office Action that are not specifically addressed above, and hereby reserves the right to challenge those assertions at any appropriate time in the future, should it arise, including any official notice.

Although it is not necessary to address the dependent claims, for the reasons provided above, Applicants would like to address claims 33-34 to even further distinguish the invention over the art of record. Claims 33-34, for example, clearly have independent novelty in additional to the novelty of claim 1, from which they depend. In particular, claims 33 and 34 illustrate examples where a plurality of programs overlap. When a subsequent event occurs, there may be a need to select one of several programs that continue to overlap as a program to be recorded. Claim 33 selects a program based on the original order that they were selected by a user. This preserves the user's preferred order of importance of programs. Claim 34 selects a program based on whether or not a program had been originally scheduled for programming. Thus, programs that are originally scheduled for recording are moved up in priority to programs not originally scheduled prior to the subsequent event. This prevents programs that have been confirmed to a user as being scheduled for recording from being un-selected and replaced with other programs upon the occurrence of the subsequent event. The art cited by the Office Action simply does not include this functionality. As stated previously, the art cited by the Office Action does not allow information about coinciding programs to persist such that such functionality can be accomplished.

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In the event that the Examiner finds remaining impediment to a prompt allowance of this

application that may be clarified through a telephone interview, the Examiner is requested to

contact the undersigned attorney.

Dated this 15 day of August, 2005.

                                        Respectfully submitted,

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